

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

MARK A. MUÑOZ §
VS. § CIVIL ACTION NO. 9:19cv229
BOBBY LUMPKIN, ET AL. §

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Mark A. Munoz, proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 against several defendants. The court previously referred this matter to United States Magistrate Judge Christine L. Stetson for consideration pursuant to applicable orders of the court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge recommending that a motion for preliminary injunction and temporary restraining order filed by plaintiff be denied as moot. The recommendation was based on the conclusion that plaintiff's transfer from the Eastham Unit to the Coffield Unit made his request for injunctive relief moot.

The court has received and considered the Report and Recommendation. Plaintiff filed objections.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. After careful consideration, the court is of the opinion the objections are without merit. An inmate's transfer to another unit makes a claim for injunctive relief moot. *Oliver v. Scott*, 276 F.3d 736, 741 (5th Cir. 2002). However, a transfer will not render moot a claim for injunctive relief if the inmate can show either a "demonstrated probability" or a "reasonable expectation" that he will be transferred back to the original facility and subjected to the allegedly unconstitutional actions. *Id.* at 741.

Plaintiff relies on *Scott* to argue that his request for injunctive relief is not moot. But plaintiff has failed to show either a demonstrated probability or a reasonable expectation that he will be transferred back to the Eastham Unit. As a result, plaintiff's claim for injunctive relief is moot.

ORDER

Accordingly, the objections filed by plaintiff (doc. no. 87) are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge (doc. no. 79) is **ADOPTED**. The motion for preliminary injunction and temporary restraining order (doc. no. 42) is **DENIED** as moot.

SIGNED this the 7 day of September, 2022.



Thad Heartfield
United States District Judge